

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

FREDERICK BANKS,)	CASE NO. 4:13 CV 335
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
MICHAEL PUGH, et al.,)	<u>AND ORDER</u>
)	
Respondents.)	

On February 14, 2013, petitioner *pro se* Frederick Banks, a federal prisoner at the Northeast Ohio Correctional Center (“NEOCC”), filed the above-captioned *in forma pauperis* habeas corpus action under 28 U.S.C. § 2241. As grounds for the petition, he asserts that because he is Native American his incarceration violates the Northwest Ordinance and 8 U.S.C. § 1401(b). Further, he complains that he has been subjected adverse conditions of confinement in NEOCC’S Special Housing Unit.

As a threshold matter, there is no colorable basis for petitioner’s claim that, as a Native American, he may not be confined in a federal prison. Moreover, to the extent he seeks to challenge the conditions of his confinement, habeas corpus is not the appropriate vehicle to do so. *Preiser v. Rodriguez*, 411 U.S. 475, 498-99 (1973); *Luedtke v. Berkebile*, 704 F.3d 465 (6th Cir. 2013). To

seek relief concerning those conditions, he would need to file a civil rights action.¹

Accordingly, the request to proceed *in forma pauperis* is granted, and this action is dismissed pursuant to 28 U.S.C. § 2243. The court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/Dan Aaron Polster 8/7/13
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

¹ To file a civil rights action, petitioner would have to file a complaint in a new case and either pay the \$350 filing fee or file a prisoner account statement with sufficient sufficient financial information for the court to assess and collect the filing fee. 28 U.S.C. § 1915(b)(1).